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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/626,966

07/25/2003

William G. Dennis

MPD-001.01

3962

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7590

07/13/2007

FOLEY HOAG, LLP

PATENT GROUP, WORLD TRADE CENTER WEST

155 SEAPORT BLVD

BOSTON, MA 02110

EXAMINER

NGUYEN, TUAN VAN

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

07/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Election/Restrictions

1. According to the Response to the Election/Restrictions Requirement applicant filed on May 01, 2007, applicant elected without traverse Group II of claims 31-56. Claims 1-30 and 57-68 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
3. **Claims 31-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Shipp et al. (U.S. 6,350,269).**
4. Referring to claims 31-58, Shipp discloses (see Figs. 1-9 and 13-34) an occlusion clip applicator 10 for storing and applying a plurality of occlusion clips 64 (see Fig. 9), the applicator comprising:
 - a. a jaw push tube 18 having proximal and distal push tube ends and a jaw push tube interior;
 - b. an elongate clip holder 58 (see Figs. 13-18 and col. 6, lines 49-63) configured to hold the plurality of occlusion clips, the clip holder being

Office Action Summary

Application No.

10/626,966

Applicant(s)

DENNIS, WILLIAM. G.

Examiner

Tuan V. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) 1-30 and 57-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/22/06, 10/29/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

formed as a channel having first and second support rails 61 and 63 attached thereto, the first and second support rails being substantially parallel and in alignment with each other and defining a gap with a gap width dimension that is greater than the main body width of the occlusion clips 64 and less than the maximum arcuate width 72 (see Fig. 9) of the occlusion clips, the clip holder having proximal and distal clip holder ends and being disposed inside the jaw push tube interior;

- c. a clip pusher 102 (see Figs. 25-28 and see col. 9, lines 23-55) having an elongate support member having upper and lower sides with a plurality of clip push prong 104 or fingers 104 attached to the lower side wherein the finger 104 configured to engage the upper arcuate portions 72, 74 of the occlusion clips 64 so that distal movement of the clip pusher causes the occlusion clips to slide distally along the support rails 61, 63, the support member 102 being mounted within the jaw push tube interior substantially parallel to the clip holder 58 with at least a portion of each clip push finger extending downward into the channel;
- d. a pair of jaws 20, 22, (see Fig. 19-24 and see col. 6, lines 37-49) each jaw having proximal and distal jaw ends, an inner engaging side and an opposite outer side, a clip slot 94 formed through the jaw from the inner engaging side to the outer side and extending distally from and through the proximal jaw end, and a pair of parallel support shelves 214, 216 bounding at least a portion of the clip slot, the jaws being pivotably

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mounted at their proximal ends 97 to the distal clip holder end 99 (see Figs. 18 and 19) and being configured for engagement by the distal tube end at 109, 111 for selective rotation between a fully open position and a closed position wherein the engaging sides of the jaws are in contact with each other, wherein the clip slot has a width dimension that is greater than the main body width of the occlusion clips and less than the maximum arcuate width of the occlusion clips; an releasing opening 96, 98 or ejection opening at the distal jaw end, wherein the ejection opening having a width that is greater than the maximum arcuate 72 of the occlusion clip 64; a pair of ramp, which is the curved surface of feature 97 at the proximal end of the jaw (see Fig. 19), wherein the ramps being aligned with the support shelves 214, 216 and support rails 61, 63;

- e. a handle assembly 12 and 16; trigger 16 associated or connected a piston 38 or actuator to actuate the jaw 20, 22 open or close; a barrel rotator 14 or a tube housing defining a bore 24 or a tube chamber (see col. 9, lines 57-60), the proximal push tube end of tube 18, the proximal clip holder end of clip holder 58 and at least a portion of the actuator 38 being disposed in the tube chamber (see col. 11, line 14 to col. 12, line 15).

5. Referring to **claim 42**, the occlusion clip in the preamble has been carefully considered but deemed not to impose any structural limitation on the claims distinguishable over the applicator as disclosed by Shipp which is capable of being used as claimed by the applicant. Extrinsic evidence, US Pub. No. 2006/0129168,

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Shipp discloses such a clip as claimed in the preamble by the applicant (see Fig. 1), further, Shipp discloses the clip can be deployed by a clip applicator as discloses in US Patent No. 6,350,269 issued to Shipp (see paragraph [0043]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan V. Nguyen whose telephone number is 571-272-5962. The examiner can normally be reached on M-F: 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tuan V. Nguyen
June 26, 2007


ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
